

American Recovery and Reinvestment Act of 2009

Questions and Answers

April 1, 2009

Eligibility

1. Who is eligible and how will eligibility be determined?

Eligibility requirements for the WIA Adult and Dislocated Worker formula programs remain unchanged by the Recovery Act. The workforce system is encouraged to test individuals' eligibility against all options to ensure that the maximum number of people qualify as dislocated workers. Customers who do not qualify as dislocated workers should be considered for eligibility in the Adult formula program. The Recovery Act makes a significant change to eligibility for WIA Youth programs. The Recovery Act increases the age requirement to a maximum of 24 years old. Unless otherwise stated in the TEGL 14-08, the laws and regulations for WIA Youth funds apply to the Recovery Act funds. (TEGL 14-08)

2. What date does the age eligibility requirement increase to 24 for youth activities funded by the Recovery Act?

The effective date is February 17, 2009. (TEGL 14-08)

Funding

1. Is there a timeline for obligations? When does the money run out?

States are strongly encouraged to spend Recovery Act funding quickly and effectively. WIA funding for Adults, Dislocated Workers, and Youth are considered to be Program Year (PY) 2008 funds and, therefore, must be expended by the end of PY 2010 (June 30, 2011). WP funds are available for obligation by the states through September 30, 2010, and must be expended by the end of PY 2010 (June 30, 2011). It is the Congress' intent, as well as that of the Administration, that the majority of these funds will be utilized within the first year of availability. (TEGL 14-08)

2. May states take 15 percent of the Youth, Adult, and Dislocated Worker (DW) funds for statewide activities and 25 percent of Dislocated Worker funds for rapid response?

Yes. WIA Adult, DW, and Youth activities formula funds are subject to the 15 percent reserve for state activities under WIA section 133(a). States may reserve up to 25 percent of the DW Recovery Act funds for Rapid Response. (TEGL 14-08)

3. Is there separate funding for Summer Youth and Year-Round Youth?

No. The Recovery Act funds are not divided between Summer Youth and Year-Round Youth. The intent of the Recovery Act funds is to increase the number of youth served. The ETA strongly encourages states and local areas to use a significant portion of these funds to operate expanded summer youth employment opportunities during the summer of 2009 and other work experiences outside of the summer months. (TEGL 14-08)

4. Will WIA and WP approved waivers for the formula funds carry over to the Recovery Act funds as well?

No. There are three waivers that do not apply to Recovery Act funds. All other currently approved waivers will apply. The three exceptions are:

- *Waiver of the funds transfer limit between the Adult and Dislocated Worker programs.* Because of the level of funding appropriated for the WIA Adult and Dislocated Worker programs, this waiver will not be applied to Recovery Act funds. The funds transfer limit provided by WIA will apply to the Recovery Act funds: up to 20 percent of the adult and dislocated worker funds allocated to a local area may, with the approval of the Governor, be transferred between programs.
- *Waiver of the limitation on the use of funds for capitalization of businesses at WIA section 181(e), and*
- *Waiver to permit the state to use a portion of rapid response funds to conduct statewide activities including incumbent worker training.* (TEGL 14-08)

5. Should we plan to spend all our youth money this summer, wait until next, or divide it into 2 summers?

In a DOL conference call Friday, March 6, 2009, ETA said states should not save the funds for the next PY, but to spend the funds now. It is critical that local areas balance the need to expend the funds quickly in order to stimulate the economy, while ensuring that quality programs are in place for youth served with Recovery Act funds. Local areas with the necessary infrastructure in place to quickly implement programming for youth served with the Recovery Act funds are strongly encouraged to expend significant Recovery Act funds in the summer of 2009. However, local areas may expend Recovery Act funds over the course of two summers and the non-summer months in between. (TEGL 14-08)

General

1. When will the Department of Labor (DOL) Employment Training Administration (ETA) provide federal guidance concerning the American Recovery and Reinvestment Act of 2009 (Recovery Act)?

The ETA released the Training and Employment Guidance Letter (TEGL) 14-08 on March 18, 2009. It provides policy guidance and direction regarding the Recovery Act funding for activities authorized under the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act (WP). On March 6, 2009, the ETA issued TEGL 13-08 to provide information on Recovery Act allocations to states for WIA Adult, Dislocated Worker, Youth Activities Program allotments; WP allotments, and Reemployment Service (RES). The ETA released Training and Employment Notice (TEN) 30-08 on March 4, 2009. It presents an overview of the ETA's implementation strategy for the WIA and WP funding under the Recovery Act.

2. What are the beginning and ending dates for the Recovery Act?

The beginning date is February 17, 2009. The ending date is June 30, 2011. (TEN 30-08 and TEGL 14-08)

3. Will the rules be the same as Workforce Investment Act (WIA) rules?

No. Although the design and delivery of the services under the Recovery Act funds are governed by WIA and WP laws and regulations, there are some differences. The exceptions are identified in the TEGL 14-08 and include youth age eligibility, reporting, suitable work experience job sites, and waivers. Refer to the TEGL 14-08 for complete information on those and other exceptions that may exist for Recovery Act funds. (TEGL 14-08)

Program

1. Are all the formula youth services required for Recovery Act summer work program?

No. Because all 10 youth program elements will already be available through existing WIA Youth funds, local areas will not be required to use Recovery Act funds to make all 10 program elements available. Local areas have the flexibility to determine which program elements they provide with Recovery Act funds. (TEGL 14-08)

2. Will we be required to monitor all summer youth contracts as we do for regular year-round youth?

Yes. Unless otherwise specified in the TEGL 14-08, all existing WIA and WP laws and regulations apply to any Recovery Act funded activity. The WIA regulations at 20 CFR 667.410 states each state recipient and subrecipient of Recovery Act funds must conduct regular oversight and monitoring of its WIA and WP Employment Services activities and those of its subrecipients and contractors in order to determine that expenditures have been made against the appropriate cost categories and within the cost limitations. (Notes from the DOL conference call on March 6, 2009)

3. Will there be a 30 percent out of school requirement?

Yes. The requirement that local areas expend a minimum of 30 percent of funds on out-of-school youth applies to the Recovery Act funds. Local areas must ensure that a minimum of 30 percent of funds are used for serving out-of-school youth.

4. Is Public Service Employment (PSE) allowed?

The WIA funds cannot be used for PSE except as specifically authorized for WIA National Emergency Grants (NEG). (WIA section 195 (10) and 20 CFR 667.264)

5. What are the pros and cons of the contemplated "Internship" strategy to stand-in for PSE. We heard that EDD said that work experience should NOT be used as an alternative to PSE. Other states are doing it. Can you advise?

The WIA prohibits PSE, except as specifically authorized for WIA NEG. We have found no evidence that other states are funding PSE with WIA funds (except as authorized for NEG).

Work experience and internships may be provided, based on an assessment or individual employment plan, as an intensive service for Adults and Dislocated Workers. It is a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A work experience workplace may be in the private for profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists.

Internships, job shadowing, and paid and unpaid community service are included as permissible work experience elements for youth. Work experiences are planned, structured learning experiences that occur in a workplace for a limited period of time. The work experience workplace may be in the private, for-profit sector; the non-profit sector; or the public sector. The work experiences may be paid or unpaid and may be subsidized or unsubsidized. Provisions for wages under the amendments to the Fair Labor Standards Act (FLSA) apply to all youth participants employed under WIA. In addition, labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act, exists. (WIA section 129(c) (2) (D) and 20 CFR 663.200, and 664.470)

Reporting/Performance

1. What are the reporting measures for the stimulus money?

Accountability guidelines for the Recovery Act emphasize data quality, streamlining data collection, and collection of information that shows measurable program outputs. The ETA is developing reporting guidelines that will minimize any new collection burdens. Any youth served with Recovery Act funds will be included in a separate Youth Recovery Act report. Guidance will be provided in an upcoming Recovery Act Performance and Reporting TEGL. (TEGL 14-08)

2. What are the performance measures for year round and summer youth?

The only measurement tool for summer youth performance is work readiness. Existing performance measures remain in effect for the WIA Youth activities. (TEGL 14-08)

3. Is the intent of the WIA Adult and Dislocated Worker funding to be used to “ramp-up” the system, combine the resources with formula services (while tracking expenditures separately), and to serve more individuals with increased capacity, or will states be required to track participants separately, as in a National Emergency Grant?

The ETA is developing reporting guidelines for these funds with the intent to minimize any new collection burdens. Final guidance on participant and performance reporting will be issued under a separate TEGL. (TEGL 14-08)